

### **Remarks/Arguments**

In response to the restriction requirement, the claims have been amended so that X in Formula I is C and Y in Formula I is N. Most of the other amendments were made to eliminate subject matter that was no longer consistent with the revised definitions of X and Y.

Claim 2 was incorporated into Claim 1 to address the rejections over the cited patent applications (see below). Claim 2 defines R<sup>16</sup> and R<sup>18</sup> as together forming a bridge between the carbon atoms to which R<sup>16</sup> and R<sup>18</sup> are attached, and does not provide other options for defining R<sup>16</sup> and R<sup>18</sup>. This same definition was already present in Claim 1 as one of two choices for R<sup>16</sup> and R<sup>18</sup>. The other choices for R<sup>16</sup> and R<sup>18</sup> were therefore cancelled from Claim 1, leaving only the definition that was also in Claim 2, which is now canceled.

### **Rejections**

The claims are rejected under 35 U.S.C. § 102(b) over US published application No. 2002/0049222 (Yang et al). The claims are also rejected under 35 U.S.C. § 102(e) over WO2004/082682 (Yang et al), over WO2004/094371 (Yang et al), and over US 2006/0205761 (Abbadie et al).

The claims are also provisionally rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-21 of US 2002/0049222 (Yang et al.), Claims 1-19 of US 2006/0,211,722 (Yang et al.), Claims 1-3, 5, 7-22 and 24-40 of US 2006/0205783 (Goble et al.), and claims 1-3 of US 2006/0069088 (Goble et al.).

The amendment to Claim 1 described above in which R<sup>16</sup> and R<sup>18</sup> must be connected to form a bridging group between the carbons to which R<sup>16</sup> and R<sup>18</sup> are attached is sufficient to overcome any of the rejections described above.

None of the compounds cited by the examiner as novelty defeating references fall within the scope of the amended claims. All of the cited compounds have a piperidine ring that

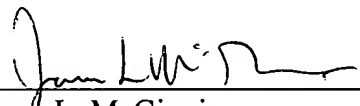
corresponds to the left hand ring in Figure I, but none of the compounds has a bridging group connecting the two carbons of the piperidine ring that are connected to the N of the ring.

With respect to the obviousness-type double patenting rejections, none of the four applications cited by the examiner can have a bridging group connecting the two carbons of the piperidine ring that are connected to the N of the ring, whereas the compound of Formula I in the current application must have a bridging group between these carbons. Therefore, there is no overlap between the claims of the current application and the claims of the four cited applications. The currently amended claims do not conflict with the claims of the cited applications, and are therefore patentably distinct from the cited claims. The provisional obviousness-type double patenting rejections should be withdrawn.

### Summary

The amended claims are patentably distinct from the cited claims, and there are no compounds in the cited applications that anticipate the claims. The current claims are therefore ready for allowance. Such allowance is earnestly solicited. If the Examiner desires to discuss any matter relating to the current application, the examiner is invited to telephone the undersigned attorney. No fee is believed to be due with this response, but if a fee is required, the fee may be charged to Merck Deposit Account 13-2755.

Respectfully submitted,

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